

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-008321

08/20/2008

HONORABLE JOSEPH B. HEILMAN

CLERK OF THE COURT
L. Muhammad
Deputy

SCOTT BAKER

KEVIN R HARPER

v.

DOLPHIN BEACH RENTAL &
MANAGEMENT L L C, et al.

JOHN R HOOPES

MINUTE ENTRY

The Court has reviewed and considered Defendants Dolphin Beach Rental & Management LLC and Jerry Little's *Motion to Dismiss, Plaintiff's Response*, and the *Reply* thereto.

In order to expedite the Court's business, the Court determines pursuant to A.R.Civ.P., Rule 7.1(c)(2), this matter shall be decided without oral argument.

The Court finds and ORDERS as follows:

- The Court chooses to ignore the attachments to Defendants' *Motion* as not relevant to the central issue framed by A.R.Civ.P., Rule 12(b)(6).
- The Court concludes that Plaintiff's failure to affirmatively allege in his Complaint that he is a licensed contractor in the State of Arizona, pursuant to A.R.S. § 12-1153, mandates dismissal of this case.
- The Court has considered Plaintiff's argument relating to the holdings of *Kenyon v. Karber Construction Co.*, 144 Ariz. 576, 577, 698 P.2d 1295, 1296 (Ct. App. 1985), and

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is not persuaded that that decision is applicable to the case at bar. The Court adopts the reasoning of Defendants in this regard as stated in Defendants' Reply at pp 6-9.

In view of these findings, the Court declines to address the other issues raised in Defendants' *Motion*.

Therefore,

Based solely on Plaintiff's failure to satisfy A.R.S. § 12-1153,

IT IS ORDERED granting Defendants' *Motion to Dismiss* pursuant to A.R.Civ.P., Rule 12(b)(6) without prejudice.

IT IS FURTHER ORDERED signing this minute entry as a formal written Order of the Court.

/S/ JOSEPH B. HEILMAN

HONORABLE JOSEPH B. HEILMAN
JUDGE OF THE SUPERIOR COURT

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